

UNITED STATES DISTRICT COURT

for the

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December 26, 2023 1:10 PM

CLERK OF COURT

U.S. DISTRICT COURT

WESTERN DISTRICT OF MICHIGAN

BY: KB SCANNED BY: KB 12/27

Andrew John McCormack

Petitioner

v.

Case No.

(Supplied by)

1:23-cv-1350

Phillip J. Green

U.S. Magistrate Judge

Sheriff Steven Hinkley

Respondent

(name of warden or authorized person having custody of petitioner)

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

1. (a) Your full name: Andrew John McCormack
- (b) Other names you have used: _____
2. Place of confinement:
 - (a) Name of institution: Calhoun County Jail
 - (b) Address: 185 E. Michigan Avenue
Battle Creek, Mich. 49014
 - (c) Your identification number: #244575
3. Are you currently being held on orders by:

☐ Federal authorities ☒ State authorities ☐ Other - explain:

9th Circuit Court of Kalamazoo County - (Hon.) Paul J. Bridenstine
4. Are you currently:

☒ A pretrial detainee (waiting for trial on criminal charges)

☐ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime

If you are currently serving a sentence, provide:

 - (a) Name and location of court that sentenced you: _____
 - (b) Docket number of criminal case: Case No. 2023-0179-FC
 - (c) Date of sentencing: _____

☐ Being held on an immigration charge

☐ Other (explain): I am being held illegally by Illegal Proceedings; Illegal Jurisdiction; Illegal Imprisonment hold since my illegal arrest of (1-17-2023)... The court has moved forward with multiple hearings that they had "no" right to do or have.

Decision or Action You Are Challenging

5. What are you challenging in this petition:

☐ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

- ☒ Pretrial detention
☐ Immigration detention
☐ Detainer
☐ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
☐ Disciplinary proceedings
☐ Other (explain): The court had no-legal Jurisdiction due to no-legal Probable Cause Determination, nor legal Arraignment.

6. Provide more information about the decision or action you are challenging:

(a) Name and location of the agency or court: 9th Circuit Court of Kalamazoo County, 227 West Michigan Ave., Kalamazoo, Mich, 49007 (Hon.) Paul J. Bridenstine

(b) Docket number, case number, or opinion number: Case No. 2023-0179

(c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):

I am challenging an Illegal Arrest with an Affidavit - (without legal arrest warrant) - Illegal Arraignment - (held 21-Days after arrest) - And all Illegal Court activities after - words - (that is on-going)

(d) Date of the decision or action: Arrest Date: (1-17-2023); Arraignment Date: (2-7-2023)

Your Earlier Challenges of the Decision or Action

7. First appeal

Did you appeal the decision, file a grievance, or seek an administrative remedy?

☐ Yes ☒ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not appeal: _____

8. Second appeal

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

☐ Yes ☒ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a second appeal: _____

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

☐ Yes☒ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a third appeal: _____

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

☐ Yes☒ No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

☐ Yes☒ No

If "Yes," provide:

(1) Name of court: _____

(2) Case number: _____

(3) Date of filing: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

- (b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

☐ Yes

☒ No

If "Yes," provide:

(1) Name of court: _____

(2) Case number: _____

(3) Date of filing: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: _____

11. Appeals of immigration proceedings

Does this case concern immigration proceedings?

☐ Yes

☒ No

If "Yes," provide:

(a) Date you were taken into immigration custody: _____

(b) Date of the removal or reinstatement order: _____

(c) Did you file an appeal with the Board of Immigration Appeals? _____

☐ Yes

☒ No

If "Yes," provide:

(1) Date of filing: _____

(2) Case number: _____

(3) Result: _____

(4) Date of result: _____

(5) Issues raised: _____

(d) Did you appeal the decision to the United States Court of Appeals?

☐ Yes☒ No

If "Yes," provide:

(1) Name of court: _____

(2) Date of filing: _____

(3) Case number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

12. **Other appeals**

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

☒ Yes☐ No

If "Yes," provide:

(a) Kind of petition, motion, or application: _____

Request For Interlocutor Appeal To Reverse Court

(b) Name of the authority, agency, or court: _____

9th Circuit Court of Kalamazoo County, 227West Michigan Ave., Kalamazoo, Mich. 49007 (Hon.) Paul J. Bridenstine

(c) Date of filing: _____

(10-13-2023)

(d) Docket number, case number, or opinion number: _____

Case No. 2023-0179-FC

(e) Result: _____

None - (No reply as of yet; refusing (Pro-Se) filing by the Court)

(f) Date of result: _____

(g) Issues raised: _____

(see Exhibit - G)* Request For Interlocutory Appeal To Reverse Court Rulingof Motion Hearing Held On (9-26-2023) By (Hon.) Paul J. Bridenstine

Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

GROUND ONE: Illegal Arrest, Proceedings, Jurisdiction, Imprisonment
(See Exhibit - F)

Also - (see Exhibit - G) * Request For Intercutory Appeal To Reverse Court Ruling
of Motion Hearing Held On (9-26-2023) By (Hon.) Paul J. Bridenstine

(a) Supporting facts (Be brief. Do not cite cases or law.):

On or about (1-17-2023), a detective falsified statements of hearsay in an
affidavit of probable cause to place this defendant under-arrest illegally...

This detective informed this defendant he was under-arrest and read him
his Miranda rights, placing a lien / hold on this defendant, while he was
being held on un-related charges in the Calhoun County Jail (See attachment)

(b) Did you present Ground One in all appeals that were available to you?

☒ Yes

☐ No

GROUND TWO: Perjury / Fraud in the 9th Circuit Court of Kalamazoo County -
(Hon.) Paul J. Bridenstine; denial / refusal of Order Denying Defendant's
October 9, 2023 Motion) (See Exhibit - D)

(a) Supporting facts (Be brief. Do not cite cases or law.):

This United States District Court can "Egregiously" see the 9th Circuit Court
of Kalamazoo County - (Hon.) Paul J. Bridenstine has denied this defendant's
(Pro-se) Motion of * Illegal Proceedings, Illegal Jurisdiction, Illegal Imprisonment,
in a perjury fraudulent manner about the facts in its denial, filed dated
(10-16-2023), (See Exhibit - D) Order Denying Defendant's (See attachment)

(b) Did you present Ground Two in all appeals that were available to you?

☐ Yes

☒ No

GROUND THREE: Court officers Criminal Reprehensible Misconduct,
Barred by Statute, That corrupts the honesty of the entire case in
prosecution. That also raises issues to the "validity" of the courts ability of
Fair impartial representation of Law,

(a) Supporting facts (Be brief. Do not cite cases or law.):

The 9th Circuit Court Judge - (Paul J. Bridenstine and the Prosecution office are in
Violation of Noncompliance with Full Discovery and Appears to be on-going with trying
to Cover-up Criminal Reprehensible Misconduct Behavior of Court officer at an
Illegal Preliminary Exam held on (3-28-2023) (See Exhibit - G).

(b) Did you present Ground Three in all appeals that were available to you?

☒ Yes

☐ No

Grounds for Your Challenge in This Petition
(Attachment PG. 1 of 2)

Ground One: On or about (1-17-2023), a detective falsified statements of hearsay in an affidavit of probable cause to place this defendant under-arrest illegally... This detective informed this defendant he was under-arrest and read him his Miranda rights; placing a lien / hold on this defendant, while he was being held on un-related charges in the Calhoun County Jail - Battle Creek, Michigan 49014., (See Exhibit-A (Edge) - Calhoun County Kite system) .., Causing this defendant to be denied a bond-reduction or PR-Bond on (1-23-2023) at this defendant's bond-hearing in the 37th Circuit Court of Calhoun County - Battle Creek, Michigan 49014., (See Exhibit-B Notice of Bond-hearing held on (1-23-2023))

This defendant was not given a Zoom-Video or given a "Probable Cause Determination" hearing within 48-hours, in fact, this defendant wasn't even given a Arraignment hearing until about 21-days later. (See Exhibit-C The 8th District Court Register of Action) - that support those facts.

Persons arrested with or with-out a warrant must be promptly brought before a neutral magistrate for a probable cause determination .., Due Process requirement "Egregiously" not met by: MCL 764.13; MCL 764.26; MCR 6.104

Arraignment outside of 72-hours with "no" legal probable cause determination hearing is an illegal hearing, and also all court proceedings after-words, the court had "no" legal Jurisdiction foundation, the court had "no" legal bases for a preliminary exam hearing .., In violation of this defendant's 4th, 5th, and 14th Amendment U.S. Const. Rights, as well as, the aligning protections of Art. 1, Sec. 2, 11, and 17 of the Michigan Const, of 1963,

Ground Two: This United States District Court can "Egregiously" see the 9th Circuit Court of Kalamazoo County - (Hon.) Paul J. Bridenstine, has denied this defendant (Pro-Se) Motion of * Illegal Proceedings, Illegal Jurisdiction, Illegal Imprisonment in a perjury

Grounds for Your Challenge in This Petition
(Attachment PS. 2 of 2)

fraudulent manner about the facts in it's denial, filed dated (10-16-2023)... (See Exhibit - D Order Denying Defendant's October 9, 2023 Motion)... Fore this defendant has been in (Pro-Se) - self representation, by force, since (8-15-2023)... (See Exhibit - E Defendant's Notice of (Pro-Se) - Self Representation, and, (Pro-Se) motion filed on (8-15-2023), and has been waiting for the court to assign substitute court appointed counsel since (10-2-2023)... (See Exhibit - F Motion * Illegal Proceedings, Illegal Jurisdiction, Illegal Imprisonment, and, Defendant's Notice of Error or Perjury, Illegal Proceedings - requesting substitute court appointed counsel immediately filed on (10-2-2023)... This defendant hasn't been given a Zoom - Video or brought before the 9th Circuit Court of Kalamazoo County, nor does this defendant have court appointed counsel, as indicated by the 9th Circuit Court denial on October 16, 2023... This can be verified through the Calhoun County Jail "Log" system, of this defendant's whereabouts on October 16, 2023, fore, this defendant was not at that hearing as required.

Furthermore, for the 9th Circuit Court of Kalamazoo County to deny and refuse to hear or acknowledge it has "No" Jurisdiction of case no. 2023-0179-FC; clearly establishes an "Egregious", that the 9th Circuit Court has combined with other officers of the court, to disregard their oath to the United States Constitution, to subject this defendant to a law and jurisdiction foreign to our constitution, and unacknowledged by our laws; giving their assent, to their pretended Legislation... violating Judicial Canon 1, 2, and 3; and violating of Article 6 of the United States Constitution... by all oath bound officers.

Inclosing: This matter is riddled with the taint of reprehensible conduct by state officers of the court, and constitutional violations, that is unremediable miscarriage of justice... The 9th Circuit Court has "No" Legal Jurisdiction... This defendant has the right to "Innocence", and has the right to Due Process of the law... This defendant request for a Dismissal w/Prejudice of all charges.

GROUND FOUR:

(a) Supporting facts (Be brief. Do not cite cases or law.):

(b) Did you present Ground Four in all appeals that were available to you?

☐ Yes

☒ No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not: * I am without court appointed counsel /or advisement at this time; I'm filing in (Pro-Se) - self representation the best that I can in addressing this Honorable Court for my "Due Process Rights to Equal Protection"; to prevent the continuous of the 9th Circuit Court infringement wrongfully /Unconstitutionally of those rights.

Request for Relief

15. State exactly what you want the court to do: I would like for this court to make an order for my immediate release from these unconstitutional violations of my due process rights of illegal imprisonment; with all charges dismissed w/o-prejudice; and an order for the prosecution not to attempt an illegal refiling of the charges... I also ask this court to take action against the 9th Circuit Court of Kalamazoo for their disregard for the United States Constitution protected and guaranteed rights of this U.S. citizen.

Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:

Placed in the Kalamazoo County Jail mail-system on Friday, December 15, 2023

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: 12-15-2023

Andrew J. McCormack
Signature of Petitioner

Signature of Attorney or other authorized person, if any

ANDREW J. MCCORMACK #2445

Calhoun County Jail

185 E. Michigan Avenue

Battle Creek, Mich. 49014

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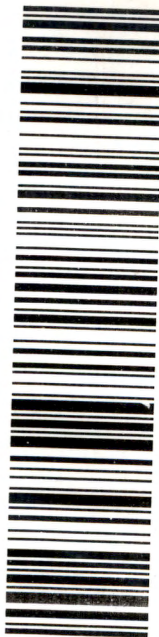
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